

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

PROTECT OUR PARKS, INC.,                     ) Docket No. 18 CV 3424  
et al.,   )  
   )  
                          Plaintiffs,                     )  
   ) Chicago, Illinois  
                          vs.                             ) August 14, 2018  
   ) 9:45 o'clock a.m.  
CHICAGO PARK DISTRICT and CITY             )  
OF CHICAGO,                                     )  
   )  
                          Defendants.                     )

TRANSCRIPT OF PROCEEDINGS - Motion  
BEFORE THE HONORABLE JOHN ROBERT BLAKEY

APPEARANCES:

For the Plaintiffs:             ROTH FIORETTI LLC  
   BY: MR. ROBERT FIORETTI  
   311 South Wacker Drive  
   Suite 2470  
   Chicago, Illinois 60606  
  
For Chicago Park District:         BURKE WARREN MacKAY & SERRITELLA PC  
   BY: MR. JOSEPH P. RODDY  
   330 North Wabash Avenue  
   22nd Floor  
   Chicago, Illinois 60611  
  
For City of Chicago:             CITY OF CHICAGO, DEPARTMENT OF LAW  
   BY: MR. ANDREW W. WORSECK  
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1 (The following proceedings were had in open court:)

2 COURTROOM DEPUTY: 18 C 3424, Protect Our Parks  
3 versus Chicago Park District.

4 THE COURT: Good morning, counsel. Appearances.

5 MR. WORSECK: Good morning, your Honor. Andrew  
6 Worseck for the City.

7 MR. RODDY: Good morning, Judge. Joe Roddy on  
8 behalf of Chicago Park District.

9 MR. FIORETTI: Good morning, your Honor. Bob  
10 Fioretti on behalf of the plaintiffs.

11 THE COURT: I apologize for the length of the call  
12 today. Technical problems. I try to control the length of  
13 the call. Sometimes I am successful and sometimes I am not  
14 successful so I apologize for that.

15 I did see the response to the motion to lift stay.  
16 Do the parties want to argue?

17 MR. FIORETTI: Well, your Honor, I think it's  
18 straightforward on what's happened here. The defendants  
19 originally came to court and said that they were not  
20 performing any operations or any construction work in Jackson  
21 Park. And then secondly, they said that the lawsuit was  
22 probably premature based upon the fact that the City was  
23 going to introduce a later ordinance and yet in the press  
24 they say we're too late in filing a lawsuit so it's one or  
25 the other.

1           But since that time, since you entered the order on  
2 the stay, operations have begun in Jackson Park. They begun  
3 -- they've moved forward. They've been moving the track and  
4 field out of the center. It allegedly, and according to the  
5 documents that were submitted by the defendants, was paid by  
6 the foundation to the tune of about \$3.5 million so things  
7 are happening and they're happening rapidly here contrary to  
8 the representations.

9           And as I read -- Mr. Roth was here the last time and  
10 he's driving his daughter to school today and he could not be  
11 here. But as I read through the transcript, the  
12 representations that were made by the defendants that nothing  
13 would happen here and I think it's -- either they're  
14 disingenuous in their approach because they are tearing down  
15 trees, uprooting the field and making way for items to happen  
16 here at the foundation and the Obama Center.

17           THE COURT: Yes, counsel?

18           MR. WORSECK: Thank you. Your Honor, as we set  
19 forth in our response in which we cite and we quote the  
20 statements that we made both orally and in writing --  
21 something that the plaintiffs did not do -- we never said  
22 that nothing would ever happen anywhere in Jackson Park.

23           This case is about a particular piece of land that  
24 the plaintiffs have put at issue in the legal claims that  
25 they made in their complaint. That complaint and those

1 claims do not even talk about much less challenge the  
2 legality of this separate project that is a Park District  
3 project to build a new track and field. It is not part of  
4 the project at issue. It's not part of the land at issue.

5 So not only did we not say that nothing anywhere  
6 would happen in Jackson Park, we wouldn't have even had any  
7 reason to be talking about the whole scope of Jackson Park  
8 because this lawsuit is about a very narrow piece of land and  
9 a very narrow dispute over what can happen on that land.

10 MR. FIORETTI: Well, Judge, it wouldn't be  
11 happening -- this would not be happening if the carved-out  
12 portion was going to be given which is the gist of the  
13 lawsuit and the movement that is happening would not have  
14 been happening at all. It would not be being paid by the  
15 foundation to -- again, \$3.5 million here to create this new  
16 track and field operation. All of it is tied, they're  
17 related at the hip and, your Honor, I ask that we move --  
18 lift the stay and stop any further construction that's  
19 occurring here.

20 THE COURT: What's your current assessment of when  
21 the issue might be in front of the City?

22 MR. WORSECK: I'm sorry, your Honor?

23 THE COURT: When will the issue be in front of the  
24 City because it wasn't there in July obviously?

25 MR. WORSECK: Sure. With respect to that, we would

1 submit that it makes sense to come back before you on the  
2 28th, which is the date your Honor set for apprising the  
3 Court of any future legislative developments. The City is  
4 quite cognizant of that date and that your Honor set that  
5 date.

6 THE COURT: Well, it's not going to be in front of  
7 the council between now and the 28th, is it?

8 MR. WORSECK: I don't want to get in front of what  
9 the council may or may not do so I would really  
10 respectfully --

11 THE COURT: I mean, it can't get on the agenda  
12 between now and then, right?

13 MR. WORSECK: Well, it -- it's possible. Again, I  
14 don't want to speak before the council has done anything. I  
15 think the critical thing to keep in mind is the date that the  
16 council would actually vote on an ordinance. The council's  
17 next meeting at least as currently scheduled for that purpose  
18 would be September 20th and that's a date that we -- or at  
19 least the September meeting is a date that we talked about  
20 last time and we talked about in our prior filings.

21 So there are different ways that things can get to  
22 that September 20th meeting and I think when we come back  
23 before you on the 28th, we'll have a better picture of what  
24 to report on that front.

25 MR. FIORETTI: Well --

1 THE COURT: Go ahead, counsel. Anything else?

2 MR. FIORETTI: Well, your Honor, I'm not sure if the  
3 September 20th date is the first meeting in September or a  
4 second meeting in September but the normal procedure is then  
5 to introduce the ordinance at the September 20th meeting and  
6 then vote on it at some point in October, unless they're  
7 going to side-step protocol and everything that is necessary  
8 here in this act so I'm not sure when they're going to vote  
9 and I think we need to at least start -- because no matter  
10 what they do, I don't think that most of the complaint that  
11 we have before you will not change in what we have. The only  
12 thing that may change is the addition of an ordinance.

13 THE COURT: Anything else, counsel?

14 MR. WORSECK: Just their motion does not make the  
15 case for why the stay should be lifted as we've explained in  
16 our response. And your Honor previously set August 28th as  
17 the date, as the point in time at which to assess whether the  
18 stay continues to make sense or whether a schedule needs to  
19 be set so we would submit let's come back on the 28th and  
20 talk about those issues at that point.

21 THE COURT: Anything else?

22 MR. FIORETTI: Again, your Honor, extensive work is  
23 being done. There are still two federal studies that are  
24 being looked at at this time and the damage is being done in  
25 the park.

1 THE COURT: Anything else?

2 MR. WORSECK: No, your Honor.

3 MR. RODDY: Judge, can I just add to that, the  
4 damage in the park on behalf of the Park District?

5 THE COURT: Yeah, sure.

6 MR. RODDY: The project that they raise in their  
7 exhibits to their motion where they attached two articles  
8 from local papers is exactly that, a separate project as  
9 counsel for the City noted. It's a project that's been in a  
10 planning stage for over a year. It's part of the entire  
11 planning stage for Jackson Park and the South Shore Cultural  
12 Center. There's been public meetings on it. It's going back  
13 to June of 2017. We went in front of the Plan Commission in  
14 May and received approval for that and the track that's being  
15 put there in the multi-use field is something that needs to  
16 be ready so that the kids and the community groups can use  
17 that once school starts in September.

18 THE COURT: Anything else?

19 MR. WORSECK: No. Thank you.

20 THE COURT: One of the things that was the predicate  
21 for the stay was the notion that there was no change in  
22 circumstance between the parties. Have you discussed with  
23 the other side an agreed injunction preventing any  
24 construction related to the center?

25 MR. WORSECK: We have not, your Honor. They have

1 not broached that with us. Again, that's not even a claim in  
2 their complaint to --

3 THE COURT: Well, I'm not talking about a claim.  
4 I'm just talking about whether or not you have thought about  
5 that issue and what your thoughts are on it.

6 MR. WORSECK: We have not had a chance to discuss  
7 that. I don't -- I would defer to my colleague here  
8 Mr. Roddy on the Park District's position but I think it's  
9 been stated publicly that there's an interest in having this  
10 track and field be done soon so that it can be used for the  
11 menu of fall athletic programming that various schools and  
12 community groups would like to use it for.

13 THE COURT: Well, it's your position that that's not  
14 related to the Obama Center, correct?

15 MR. WORSECK: Correct. It's a separate project.

16 THE COURT: All right. I don't see a need to come  
17 back on August 28th. I want to try to save the parties some  
18 money. What I was intending to do on the 28th if it  
19 hadn't -- if there wasn't clarity out of the city council,  
20 which is fine -- they have their own agenda, I'm not going to  
21 tell them what to do as I said last time -- but it made sense  
22 to delay for a reasonable amount of time these proceedings to  
23 see if we got some clarity. And what I was intending to do  
24 on the 28th if we didn't have clarity would be to set an  
25 answer date -- you know, an appropriate answer date and



1 there's no real reason not to set that date now as opposed to  
2 having everyone come back in a couple of weeks.

3 So I'm going to grant the motion to lift the stay.  
4 And can you file an answer or other responsive pleading by  
5 October 1st?

6 MR. WORSECK: Your Honor, we would submit that date  
7 be 30 days from the September 20th city council meeting.  
8 Again, that would be the meeting --

9 THE COURT: So what day were you proposing, October  
10 what?

11 MR. WORSECK: Just one second, your Honor.

12 THE COURT: Yeah. Go ahead.

13 (Brief pause.)

14 MR. FIORETTI: Your Honor, what's the actual  
15 question to them?

16 THE COURT: I'm sorry?

17 MR. FIORETTI: What's the actual question?

18 THE COURT: What time he's going to file an answer  
19 or other responsive pleading because I'm lifting the stay.

20 MR. WORSECK: October 22nd, your Honor.

21 THE COURT: All right. If October 22nd is your  
22 answer or other responsive pleading, the MIDP discovery would  
23 be due 30 days after that.

24 What's the 30-day date after October 22nd, Gloria?

25 COURTROOM DEPUTY: November -- November 22nd.

1 THE COURT: All right.

2 MR. WORSECK: Your Honor, with respect to MIDP, last  
3 time plaintiff's counsel said they did not anticipate  
4 discovery being necessary in this case and we would  
5 anticipate in our submissions on October 22nd raising grounds  
6 for dismissal that would allow the Court to defer an answer  
7 and the commencement of MIDP under the MIDP standing order.

8 MR. FIORETTI: That is correct, your Honor. And  
9 upon second analysis as we've looked at things, there may be  
10 some limited -- I believe most of it can be decided on what  
11 has happened and on the substance of the complaint and the  
12 summary judgment but there may be some request on discovery  
13 and more document oriented and maybe we can get that ahead of  
14 time.

15 THE COURT: All right. So do you want me to defer  
16 MIDP discovery until after we get a responsive pleading? Is  
17 that what the parties both want me to do?

18 MR. FIORETTI: I would say so.

19 MR. WORSECK: That would be our submission, your  
20 Honor.

21 THE COURT: Okay. Gloria, we're not going to set an  
22 MIDP initial discovery date. Give me a status date a couple  
23 days after that answer comes on file.

24 COURTROOM DEPUTY: Wednesday, October 24th at  
25 9:45.

1           THE COURT: Is that good for the parties for status  
2 on the case?

3           MR. WORSECK: That's good for the City, your Honor.

4           MR. RODDY: As for the Park District, Judge.

5           MR. FIORETTI: That's fine.

6           THE COURT: Okay. When that motion to dismiss comes  
7 in, take a good look at it because my standing on a motion to  
8 dismiss --

9           MR. FIORETTI: We know how it is; yes.

10          THE COURT: -- I'm going to ask you to make an  
11 election. And if you can call my courtroom deputy and say  
12 we're going to make an election and we're going to amend or  
13 we're going to set a briefing schedule, I could save  
14 everybody another court appearance and we can just set a  
15 briefing schedule if that's what the parties want to do but  
16 just take a look at it once it comes in and discuss that.

17          Anything else I can help the parties with today?

18          MR. RODDY: Nothing, Judge.

19          MR. WORSECK: No.

20          THE COURT: All right. Thank you, counsel. And  
21 again, I apologize for the length of the call.

22          MR. WORSECK: Thank you, your Honor.

23          MR. RODDY: Thank you, your Honor.

24          MR. FIORETTI: Thank you.

25          THE COURT: We're striking that 8-28 date.

1 COURTROOM DEPUTY: Okay.

2 (Which concluded the proceedings in the above-entitled  
3 matter.)

4 C E R T I F I C A T E

5 I hereby certify that the foregoing is a transcript  
6 of proceedings before the Honorable John Robert Blakey on  
7 August 14, 2018.

8  
9 ***/s/Laura LaCien***

10 \_\_\_\_\_  
11 Laura LaCien  
12 Official Court Reporter

September 10, 2018  
Date

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